

Applicants: Coloplast A/S
Serial No.: 10/591,452
Filed: 07-02-2007
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Attorney Docket No.: 2003048-US

REMARKS

This communication is in response to the non-final office action mailed on September 16, 2010 rejecting claims 1-14.

With this response, claim 4 has been canceled and claims 1-3, 5-8, 10-11, and 14 have been amended. Claims 1-3 and 5-14 remain pending in the application for consideration.

In the Drawings

The office action at page 2 indicates that the drawings are objected to. With this response, Replacement Sheets for the drawings under 37 CFR §1.121 (d), made by a process that provides satisfactory reproduction characteristics, are submitted herewith. In addition, a lead line identifying element number 209 has been included in Figure 10 as disclosed in the application as filed on page 9, line 15, which is believed to correct the objection identified by the Examiner at page 2 of the office action.

It is respectfully requested that the objections to the drawings be withdrawn.

Claim Objections

Claim 8 was objected to as having a typographical error. The Examiner's thoroughness in examining the application is noted with appreciation. With this response, claim 8 has been amended to correct typographical error. Thus, it is respectfully requested that the objection to claim 8 be withdrawn.

Claim rejections under 35 U.S.C. § 112

Claim 7 was rejected under 35 U.S.C. §112, second paragraph. With this response, claim 7 has been amended to traverse the rejection under § 112. Thus, it is respectfully requested that the rejection to claim 7 under 35 U.S.C. §112 be withdrawn.

Claim rejections under 35 U.S.C. § § 102 and 103

Claims 1-4, 9, 12, and 14 were rejected under 35 U.S.C. §102 (b) as anticipated by Ferguson, US Pat. number 5,306,264 ("Ferguson").

With this response, independent claim 1 has been amended to require a drainage bag; a coupling system configured to secure the drainage bag to a stoma of a user; at least one filter comprising a foam for preventing liquid and solid particles from passing from the drainage bag to its surroundings, the foam defining a passageway for releasing flatus gasses from the drainage bag to the surroundings; wherein the filter is integrated with the coupling system such that a filter inlet of the filter is inside the drainage bag and the foam is configured to displace faeces away from the filter inlet of the filter in response to folding of the drainage bag during use.

Support for the language of amended independent claim 1 is located throughout the application as filed, at least between pages 8, line 7 to page 9, line 30 and in Figure 11.

Ferguson does not teach or suggest an ostomy system including a filter that is integrated with a coupling system such that a filter inlet of the filter is inside the drainage bag, as required by amended independent claim 1. Claims 2-4, 9, 12, and 14 further define amended independent claim 1. Thus, it is respectfully requested that the rejections to claims 1-4, 9, 12, and 14 under 35 U.S.C. §102 as anticipated by Ferguson be withdrawn.

Claims 5 and 10 were rejected under 35 U.S.C. §103 (a) as unpatentable over Ferguson in view of Broida, US Pat. number 5,013,307 ("Broida"). The office action concedes at page 8 that Ferguson does not teach or suggest a filter arranged between the coupling system and the drainage bag. The office action interprets Broida to teach a filter 10 arranged between coupling system 23 and drainage bag 20.

Applicant's representative takes the position that Broida merely discloses an absorbent pad 10 for an ostomy appliance that is placed around the connection of the ostomy appliance flange (Abstract). Broida discloses at column 2, lines 48-56 that the absorbent pad is a separate and replaceable pad for use in absorbing fluid or liquid that leaks from or on the flange of an ostomy appliance. Broida thus address leakage in a failed ostomy system whereas the instant application addresses effective filtration of an operable ostomy system. Leakage, even if subsequently absorbed, is not an acceptable ostomy situation. In any regard, with reference to Figure 2 the Broida absorbent pad 10 is placed around the aperture 22 of the flange 23. In contrast to the claimed ostomy system, the absorbent pad 10 of Broida does not provide any portion that is inside of the drainage bag. Consequently, the absorbent pad 10 of Broida would fail to prevent

liquid and solid particles from passing from the drainage bag to its surroundings as the filter of amended independent claim 1 provides.

Consequently, even if the filter of Ferguson were to be modified according to the coupling system 23 disclosed by Broida, the resulting device would fail to provide a filter integrated with a coupling system such that a filter inlet of the filter is inside the drainage bag and the foam is configured to displace faeces away from the filter inlet of the filter in response to folding of the drainage bag during use, as required by amended independent claim 1. In particular, Ferguson locates his filter on a wall of the drainage bag opposite of the coupling 30 and a Broida locates the absorbent pad 10 on an exterior surface of the coupling 23 in a location that is entirely exterior of the drainage bag. Thus, the purported combination of Ferguson as modified by Broida fails to teach or suggest or render obvious all limitations of amended independent claim 1 such that independent claim 1 is not obvious over these cited references. Claims 5 and 10 further define patentably distinct amended independent claim 1 and are likewise nonobvious over the cited references.

Claims 6-7 and 13 were rejected under 35 U.S.C. §103 (a) over Ferguson in view of Petersen, US patent number 4,826,495 ("Petersen"). Petersen discloses a filter 36 placed in a recess 34 of a flange 10. No portion of the filter 36 is exposed inside of the drainage bag. Thus, even if Ferguson were to be modified according to the disclosure of Petersen, the resulting device would fail to teach or suggest or render obvious all limitations of amended independent claim 1 such that independent claim 1 is not obvious over these cited references. Claims 6-7 and 13 further define patentably distinct amended independent claim 1 and are likewise nonobvious over the cited references.

CONCLUSION

It is believed that pending claims 1-3 and 5-14 recite patentable subject matter over the cited references and are in condition for allowance.

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The Examiner is invited to telephone the undersigned if issues remain outstanding in this application. The office is authorized to charge any fees actually due and credit any overpayment to deposit account 50-4439.

Respectfully submitted,

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